

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE GAS )	
AND ELECTRIC COMPANY FOR AN )	CASE NO.
ADJUSTMENT OF ITS ELECTRIC AND GAS )	2018-00295
RATES )	

ORDER

The matter is before the Commission upon a motion filed by Amy Waters, Joe Dutkiewicz, and Sierra Club (collectively, “Movants”), requesting intervention in the instant proceeding. In support of its motion, Sierra Club states that it is one of the oldest and largest conservation groups in the country and that Ms. Waters and Mr. Dutkiewicz are members of the Cumberland Chapter of the Sierra Club and residential customers of Louisville Gas and Electric Company (LG&E). Movants state that they have an interest in “ensuring that energy efficiency, conservation, and distributed generation are advanced by [LG&E’s] rate designs, resource planning, and expenditures.”<sup>1</sup> In particular, Movants contend that the proposed increase in the basic service charge will disincentivize conservation and energy-efficient behaviors. Movants argue that its interests in this matter are not otherwise adequately represented by any other party to this proceeding, including the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), because no other party can adequately represent Movants’ focused interests in energy efficiency, conservation, and distributed generation. Lastly, Movants assert that they will develop the record in this matter that will

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<sup>1</sup> Petition for Full Intervention of Amy Waters, Joe Dutkiewicz, and Sierra Club at 7.

assist the Commission in fully considering the issues without complicating or disrupting the proceedings. Movants point out that they have the necessary expertise and knowledge to evaluate the reasonableness LG&E's proposed revenue increase, the proposed rate structure and design, and whether significant investment should continue to be spent on uneconomical generation.

Having reviewed the motion and being otherwise sufficiently advised, the Commission finds that the only person that has a statutory right to intervene is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission. In the unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007), the Court of Appeals ruled that this Commission retains power in its discretion to grant or deny a motion for intervention but that discretion is not unlimited. The Court then enumerated the statutory and regulatory limits on the Commission's discretion in ruling on motions for intervention. The statutory limitation, KRS 278.040(2), requires that the person seeking intervention have an interest in the rates or service of a utility as those are the only two subjects under the jurisdiction of the Commission. The regulatory limitation of 807 KAR 5:001, Section 4(11) requires that a person demonstrate a special interest in the proceeding which is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

Applying those standards to the request for intervention, the Commission finds that Movants have failed to establish that it has an interest in the instant proceeding that is not

otherwise adequately represented. The interests expressed by Ms. Waters and Mr. Dutkiewicz, as residential customers of LG&E, are similar to the interests of other residential customers served by LG&E. Those interests are adequately represented by the Attorney General, who is a party to this proceeding.

With respect to the question of whether Movants' intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, Movants state that they will present evidence regarding the reasonableness of LG&E's proposed revenue increase and the proposed rate structure and design as well as whether significant investment should continue to be spent on uneconomical generation. The Commission finds that such evidence would not assist us in fully considering the matter without unduly complicating the proceedings. The Commission finds that the Attorney General, in base rate proceedings in which the Attorney General has intervened, has historically presented evidence addressing the reasonableness of the requested revenue increase, revenue allocation, and rate design and how those requests impact the residential customer class. In particular, we note that the Attorney General in LG&E's most recent rate case<sup>2</sup> filed testimony addressing LG&E's proposed revenue increase, revenue allocation and impacts on the residential class, and rate design and structure<sup>3</sup> and how the proposed increase in the basic service charge would be contrary to effective energy efficiency and conservation efforts. Accordingly, we find that Movants' motion should be denied.

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<sup>2</sup> Case No. 2016-00371, *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity* (Ky. PSC June 22, 2017).

<sup>3</sup> Case No. 2016-00371, Direct Testimony of Glenn A. Watkins on Behalf of the Office of the Attorney General at 51–58 (filed Mar. 3, 2017).

Movants will have ample opportunity to participate in this even though they are not granted intervenor status. Movants can review all public documents filed in this case and monitor the proceedings via the Commission's website. In addition, Movants may file comments as frequently as they choose, and those comments will be entered into the record of this case. Finally, if a formal evidentiary hearing is held, Movants will be provided an opportunity to present any information that they wish for the Commission's consideration in this matter.

IT IS HEREBY ORDERED that Movants' motion to intervene is denied.

By the Commission

ENTERED  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
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Executive Director

Case No. 2018-00295

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